

**PHIL WEISER**  
Attorney General  
**NATALIE HANLON LEH**  
Chief Deputy Attorney General  
**ERIC R. OLSON**  
Solicitor General  
**ERIC T. MEYER**  
Chief Operating Officer



**STATE OF COLORADO  
DEPARTMENT OF LAW**

**RALPH L. CARR**  
**COLORADO JUDICIAL CENTER**  
1300 Broadway, 10th Floor  
Denver, Colorado 80203  
Phone (720) 508-6000  
  
Natural Resources and  
Environment Section

**AGENDA**

**Colorado Natural Resources Trustees Meeting  
September 16, 2022  
9:00 am to 11:00 am**

**Location:**

Ralph L. Carr Judicial Building  
1300 Broadway, Denver CO  
Room 1A-1B

**Zoom Meeting**

Link to Zoom Meeting: <https://us02web.zoom.us/j/89592441620>

**Note: A hyperlink to the meeting will be emailed to Trustees and staff and will be posted on the Trustee website:**

<https://coag.gov/office-sections/natural-resources-environment/trustees/whats-new/>

**Open Session**

1. Approve Agenda – 1 minute
2. Approval of Minutes from June 9, 2022, June 17, 2022 and June 28, 2022 Meetings – 5 minutes

**Action Items:**

- (1) Review and approve minutes from June 9, 2022 meeting
- (2) Review and approve minutes from June 17, 2022 meeting
- (3) Review and approve minutes from June 28, 2022 meeting

**Documents:**

- (1) Draft minutes from June 9, 2022 meeting
- (2) Draft minutes from June 17, 2022 meeting
- (3) Draft minutes from June 28, 2022 meeting

3. Budgets Update – (Jennifer Talbert) - 5 minutes

Action Items: None

Document:

(1) Budget Spreadsheet

4. Federal Infrastructure Bill Update – (Jennifer Talbert) – 5 minutes

Action Items: None

Documents: None

5. Trustee Project Selection Guidance – (Jennifer Talbert, Rob Harris) – 10 minutes

Action Item:

(1) Adopt/reject revision to Project Selection Guidance

Documents:

(1) Draft revised Project Selection Guidance

6. California Gulch – (Susan Newton, Ed Perkins) - 10 minutes

Action Item:

(1) Approve/deny resolution approving Central Colorado Conservancy (CCC) project amendment

Documents:

(1) Memo from David Banas

(2) Project proposal from CCC

(3) Draft resolution

7. Lowry Landfill – (Emily Splitek, Jennifer Talbert) – 10 minutes

Action Items: None

Documents: None

8. Rocky Mountain Arsenal – (Jennifer Tabert) – 5 minutes

Action Items: None

Documents: None

9. Summitville – (Emily Splitek, Susan Newton) – 5 minutes

Action Items: None

Documents: None

### **Executive Session**

10. North Saint Vrain – (Jason King, Melynda May) – 5 minutes

Action Items: None

Documents: None

11. Vail/Mill Creek – (Jason King) - 10 minutes

Action Items: None

Documents: None

12. Bonita Peak Mining District – (David Kreutzer, Emily Splitek) – 10 minutes

Action Items: None

Documents: None

### **Open Session**

13. Report from Executive Session – 1 minute

Action Items: None

Documents: None

ITEM #1

NO DOCUMENT

ITEM #2

**Colorado Natural Resource Damages Trustees**  
**Meeting Minutes**  
**June 9, 2022**  
**(Approved \_\_\_\_\_)**

**In Attendance:**

**TRUSTEES**

Phil Weiser, Attorney General

Natalie Hanlon Leh, Chief Deputy Attorney General (Trustee-Designate)

Dan Gibbs, Executive Director, Colorado Department of Natural Resources (DNR)

Trisha Oeth, Acting Director of Environmental Programs, Colorado Department of Public Health and Environment (CDPHE)

**TRUSTEE STAFF**

Amy Beatie, Deputy Attorney General, Natural Resources and Environment Section (NRE)

David Kreutzer, First Assistant Attorney General, NRE

David Banas, Senior Assistant Attorney General, NRE

Doug Jamison, CDPHE

Jennifer Talbert, CDPHE

Susan Newton, CDPHE

Melody Mascarenez, CDPHE

Ed Perkins, Colorado Parks and Wildlife, DNR (CPW)

Robert Harris, CPW

Melynda May, CPW

**OTHER STATE STAFF**

Laura Kelly, Paralegal, NRE

John Ott, Systems Administrator, Information Technology (AGO)

**INTERNS**

Jason Grimm

Jack Wold-McGimsey

Meagan Kirby

Benjamin Elrod

Christian Dykson

**PUBLIC**

None

**Open Session**

Trustee Weiser called the hybrid meeting to order at approximately 9:05 a.m. on June 9, 2022 (held in Carr Building, Room 1F and via Zoom). The meeting's purpose was to brief the Trustees on the current status of issues relating to Natural Resource Damages (NRD) projects, and to request direction and/or approval for various actions.

### **1. Agenda**

Trustee Weiser suggested revising the Agenda in order to hold an Executive Session immediately after the Budget Update. Trustee Gibbs moved to approve the Agenda as revised. Trustee Oeth seconded the motion, and the motion was unanimously approved.

### **2. Minutes**

Trustee Weiser presented the minutes from the March 17, 2022 Trustee Meeting. Trustee Gibbs moved to approve the March 17, 2022, minutes. Trustee Oeth seconded the motion, and the motion was unanimously approved.

### **3. Budget Update**

Jennifer Talbert presented the NRD budget spreadsheet. Trustee Weiser inquired about funds not spent as anticipated or opportunities that were not previously considered. Ms. Talbert responded that funds remain in the Lowry Landfill and Rocky Mountain Arsenal funds (which are in the process of being consolidated in each case). She added that other funds from the Blue T and Standard Metals settlements have not yet been awarded.

### **Executive Session**

Deputy AG Beatie recommended the Trustees make a motion to go into Executive Session to consider Agenda Items #14 and #15 on the original Trustee Meeting Agenda. She stated the Executive Session is authorized pursuant to section 24-6-402(3)(a)(II) and (III), C.R.S. and other laws that allow the Trustees to enter Executive Session for specific purposes. At approximately 9:15 a.m., Trustee Gibbs moved to begin an Executive Session to discuss Agenda Items #14 and #15 on the original Agenda. Trustee Oeth seconded the motion, and the motion was unanimously approved. The Executive Session was digitally recorded.

At approximately 9:50 a.m., Trustee Gibbs moved to end the Executive Session, Trustee Oeth seconded the motion, and the motion was unanimously approved, whereupon Executive Session was ended.

### **Open Session**

Deputy AG Beatie stated that pursuant to statute, the Trustees went into Executive Session to consider Agenda Items #14 and #15 on the original Agenda. The discussion during Executive Session was limited to that item and no formal action was taken. Five NRE Interns joined the Open Session and introduced themselves.

### **4. Survey of NRD Programs Nationwide**

David Kreutzer reported the results of a survey taken by Trustee staff ("staff") concerning what has been previously referred to as a "Small Spills Program." Staff learned that only a few other states have their own NRD statute, or a well-designed process, to assess injuries and calculate damages based on a formula. He noted that a simplified process for smaller injuries would result in more efficient recoveries. Staff plans to present draft guidance to the Trustees at a future meeting. Such guidance would allow staff, rather than an outside consultant, to analyze a smaller spill to obtain a general idea about injuries and calculate damages.

## **5. Standard Metals**

Mr. Kreutzer reported that staff had hoped to bring a Standard Metals project proposal to the Trustees at this meeting, but the proposal still needed additional clarification regarding the preservation of acquired property through a conservation easement.

## **6. Suncor**

David Banas provided background relating to the original settlement with Suncor and how those funds were awarded in 2018. Due to accrued interest, there remains approximately \$37,000 in the fund. Staff recommended approving a resolution to award those remaining funds and all accrued interest to Ducks Unlimited to be used for its original 2018 restoration project which remediates damages to waterfowl populations, wetland habitats, and groundwater resources on the South Platte River. Trustee Gibbs moved to approve the resolution to award \$37,454 and all accrued interest for the *Ducks Unlimited Suncor Remediation Proposal*. Trustee Oeth seconded the motion, and the motion was unanimously approved.

## **7. Uravan**

Doug Jamison provided background about West End Economic Development Corporation's ("West End") *Uravan Ball Park Restoration Project* which the Trustees approved in 2021. He explained that West End has been slowly implementing those projects, but because the area is extremely isolated, construction procurement is difficult. Due to the increased cost of contracting and materials, West End proposed to eliminate a number of project elements and reallocate funding to priority activities. Mr. Jamison noted that, because the original amount of funding remains the same, staff is simply notifying the Trustees of the amended contract to adjust the scope of work.

## **8. Idarado**

Mr. Jamison provided background about a project proposal from a local watershed group to do mine reclamation and restoration work in a high mountain basin on a tributary to a creek south of Ouray. At the time the proposal was submitted, EPA indicated that there was no potentially responsible party, and the Trustees awarded the requested funding. Mr. Jamison explained that EPA recently decided that this site needs work under their removal program and EPA is working on an administrative order on consent with the current property owner (Ouray Silver Mines). He further explained that there was some overlap with the restoration project and the removal action, so staff is simply notifying the Trustees that the project proponents are shifting their scope of work to avoid that overlap.

## **9. California Gulch**

Mr. Banas reported that approximately \$250,000 remains unallocated in the state Cal Gulch Fund and staff has offered a plan to the Federal Trustee Council suggesting how to spend those funds and are awaiting a response.

## **10. Rocky Mountain Arsenal**

Mr. Banas reminded the Trustees that there were two separate NRD funds for the Rocky Mountain Arsenal (the Recovery Fund and the Foundation Fund), and that the Foundation Fund was limited to projects in the Northeast Greenway Corridor (NGC). He added that there remains



about \$7 million in the Recovery Fund and \$1 million in the Foundation Fund. Mr. Banas reported that, because the NGC no longer exists, staff worked with the U.S. Department of Justice and Shell Oil Company to reopen the case to lodge an Amendment to Consent Decree which allowed funds to be spent without the NGC restriction. The comment period is over and a motion to enter the Amendment to Consent Decree is pending.

#### **11. Lowry Landfill**

Ms. Talbert reported a situation similar to the Rocky Mountain Arsenal, where the Trustees directed staff to amend a consent decree with the City and County of Denver and Waste Management of Colorado, Inc. The original consent decree required that NRD funding in the amount of \$500,000 be used as a revolving loan fund and administered by the Denver Urban Renewal Authority (DURA). She explained that the revolving loan contract with DURA expired, and DURA was not interested in extending the contract because it was duplicative of another DURA grant program. Ms. Talbert added that staff researched other organizations to administer the revolving loan fund, but having found none, they approached Denver and Waste Management to amend the consent decree so the remaining funds (approximately \$440,000) could be spent instead to improve and restore water quality in the South Platte River, or other areas of Denver and Arapahoe Counties. Denver and Waste Management did not oppose the motion to amend the consent decree and an Order Amending the Performing Parties Consent Decree was entered by the Court on July 19, 2022.

#### **12. Rocky Flats**

Ms. Talbert provided background about a project previously approved by the Trustees to remove non-native plant species at Rocky Flats which allocated the remaining amount of approximately \$11,000 in the Rocky Flats fund. She added that the work, being performed by the Mile High Youth Corps, will be completed this summer and staff will provide an update to the Trustees at a future meeting.

#### **13. Vail/Mill Creek**

Melynda May reported that staff hired Abt Associates to provide a preliminary estimate of injuries and damages for the fish kill resulting from Vail Resorts' spill of snowmaking water into Mill Creek. She expects that estimate to be finished at the end of June. Mr. Kreutzer added that CDPHE's Water Quality Control Division issued a Notice of Violation (NOV) to Vail Resorts.

The Trustees scheduled additional meetings for June 17, 2022, at 1:00 p.m. and June 28, 2022, at 9:00 a.m.

At approximately 10:15 a.m., Trustee Oeth moved to adjourn the meeting. Trustee Gibbs seconded the motion, and the motion was unanimously approved.



**Colorado Natural Resource Damages Trustees**  
**Meeting Minutes**  
**June 17, 2022**  
**(Approved \_\_\_\_\_)**

**In Attendance:**

**TRUSTEES**

Natalie Hanlon Leh, Chief Deputy Attorney General  
Dan Gibbs, Executive Director, Colorado Department of Natural Resources (DNR)  
Trisha Oeth, Director of Environmental Health and Protection, Colorado Department of Public Health and Environment (CDPHE)

**TRUSTEE STAFF**

Amy Beatie, Deputy Attorney General, Natural Resources and Environment Section (NRE)  
David Kreutzer, First Assistant Attorney General, NRE  
David Banas, Senior Assistant Attorney General, NRE  
Emily Splitek, Assistant Attorney General, NRE  
Doug Jamison, CDPHE  
Jennifer Talbert, CDPHE  
Susan Newton, CDPHE  
Melody Mascarenez, CDPHE  
Ed Perkins, Colorado Parks and Wildlife, DNR (CPW)  
Mindi May, CPW

**OTHER STATE STAFF**

Laura Kelly, Paralegal, NRE

**INTERNS**

None

**PUBLIC**

None

**Open Session**

Trustee-Designate Hanlon Leh called the meeting (via Zoom) to order at approximately 1:03 p.m. on June 17, 2022. The meeting's purpose was to brief the Trustees on the current status of issues relating to Natural Resource Damages (NRD) projects, and to request direction and/or approval for various actions.

### **Executive Session**

Deputy AG Beatie recommended the Trustees make a motion to go into Executive Session to consider Agenda Item #2 on the Trustee Meeting agenda. She stated the Executive Session is authorized pursuant to section 24-6-402(3)(a)(II) and (III), C.R.S. and other laws that allow the Trustees to enter Executive Session for specific purposes. At approximately 1:04 p.m., Trustee Gibbs moved to begin an Executive Session to discuss Agenda Item #2. Trustee Oeth seconded the motion, and the motion was unanimously approved. The Executive Session was digitally recorded.

At approximately 1:35, Trustee Gibbs moved to end the Executive Session. Trustee Oeth seconded the motion, and the motion was unanimously approved, whereupon Executive Session was ended. It was noted that no members of the public were in the Zoom waiting room at the close of the Executive Session.

### **Open Session**

Deputy AG Beatie stated that pursuant to statute, the Trustees went into Executive Session to consider Agenda Item #2. The discussion during Executive Session was limited to that item and no formal action was taken.

At approximately 1:36 p.m., Trustee Gibbs moved to adjourn the meeting. Trustee Oeth seconded the motion, and the motion was unanimously approved.



**Colorado Natural Resource Damages Trustees**  
**Meeting Minutes**  
**June 28, 2022**  
**(Approved \_\_\_\_\_)**

**In Attendance:**

**TRUSTEES**

Phil Weiser, Attorney General  
Dan Gibbs, Executive Director, Colorado Department of Natural Resources (DNR)  
Trisha Oeth, Director of Environmental Health and Protection, Colorado Department of Public Health and Environment (CDPHE)

**TRUSTEE STAFF**

Amy Beatie, Deputy Attorney General, Natural Resources and Environment Section (NRE)  
David Kreutzer, First Assistant Attorney General, NRE  
David Banas, Senior Assistant Attorney General, NRE  
Emily Splitek, Assistant Attorney General, NRE  
Shelley Hickerson, Assistant Attorney General, NRE  
Tracie White, CDPHE  
Doug Jamison, CDPHE  
Jennifer Talbert, CDPHE  
Susan Newton, CDPHE  
Melody Mascarenez, CDPHE  
Ed Perkins, Colorado Parks and Wildlife, DNR (CPW)  
Robert Harris, CPW  
Mindi May, CPW

**OTHER STATE STAFF**

Laura Kelly, Paralegal, NRE

**INTERNS**

None

**PUBLIC**

None

**Open Session**

Trustee Weiser called the meeting (held via Zoom) to order at approximately 9:35 a.m. on June 28, 2022. The meeting's purpose was to brief the Trustees on the current status of issues relating to Natural Resource Damages (NRD) projects, and to request direction and/or approval for various actions.

### **Approve Agenda**

Trustee Gibbs moved to approve the Agenda, Trustee Oeth seconded the motion, and the motion was unanimously approved.

### **Executive Session**

Deputy AG Beatie recommended the Trustees make a motion to go into Executive Session to consider Agenda Item #2 on the Trustee Meeting agenda. She stated the Executive Session is authorized pursuant to section 24-6-402(3)(a)(II) and (III), C.R.S. and other laws that allow the Trustees to enter Executive Session for specific purposes. At approximately 9:36 p.m., Trustee Oeth moved to begin an Executive Session to discuss Agenda Item #2. Trustee Gibbs seconded the motion, and the motion was unanimously approved. The Executive Session was digitally recorded.

At approximately 10:00 a.m, Trustee Gibbs moved to end the Executive Session, Trustee Oeth seconded the motion, and the motion was unanimously approved, whereupon Executive Session was ended. It was noted that no members of the public were in the Zoom waiting room at the close of the Executive Session.

### **Open Session**

Deputy AG Beatie stated that pursuant to statute, the Trustees went into Executive Session to consider Agenda Item #2. The discussion during Executive Session was limited to that item and no formal action was taken.

At approximately 10:01 a.m., Trustee Oeth moved to adjourn the meeting. Trustee Gibbs seconded the motion, and the motion was unanimously approved.

ITEM #3



## Natural Resource Damages Accounts

NRD Matter	Bonita Peak	California Gulch	Fountain Creek	Idarado	Lowry	Rocky Flats
Total Settlement amount	\$1,600,000.00	\$10,000,000.00	\$345,000.00	\$1,000,000.00	\$1,606,930.00	\$10,000,000.00
Total NRD dollars spent	\$0.00	\$8,050,786.84	\$0.00	\$1,561,412.98	\$1,257,894.52	\$10,000,000.00
Account Balance as of 07/30/22	\$1,602,038.47	CDPHE   DOI \$6,259,315.06   \$1,200,000	\$359,613.92	\$200,160.78	\$674,871.21	\$11,392.99
Trustee Resolution Date	NONE	12/10/2021 & 3/17/2022	4/23/2019	6/24/2019	NONE	10/9/2018
Current Trustee awarded amount	\$0.00	\$6,306,119.00	\$359,613.92	\$287,000.00	\$0.00	\$11,392.99
Current Contract Encumbrances	\$0.00	\$1,564,150.05	\$0.00	\$168,200.00	\$0.00	\$11,261.00
Remaining available funds	\$1,602,038.47	\$4,695,165.01   \$1,200,000	\$359,613.92	\$31,960.78	\$674,871.21	\$131.99
Settlement Restrictions	NO	YES	NO	NO	YES	NO
Type of Restriction	None	Funds must be used in accordance with Restoration Plans developed by the State and USFWS	None	None	Lowry has 2 settlements - (1) revolving loan fund which is being amended and (2) groundwater nexus.	National Defense Authorization Act
Interest and explanations		Segregated Funds. Interest not earmarked for site.	Interest goes to CPW to include in Chilcott Diversion Project, no remaining funds available	Interest goes to the Governor's Basin Restoration Project, no remaining funds available	\$259,415.26 was returned by DURA. Revolving loan fund balance is \$459,415.26. remaining balance available for new projects	Interest awarded to Rocky Mountain Youth Corps, no remaining funds available

## Natural Resource Damages Accounts

NRD Matter	RMA Recovery Fund	RMA Foundation Fund	Shattuck	Standard Metals	Summitville	Suncor	Uravan
Total Settlement amount	\$17,400,000.00	\$10,000,000.00	\$1,250,000.00	\$415,368.00	\$5,000,000.00	\$1,230,000.00	\$1,000,000.00
Total NRD dollars spent	\$12,037,249.70	\$8,697,832.00	\$1,272,904.00	\$0.00	\$5,129,523.00	\$708,191.40	\$1,023,823.62
Account Balance as of 07/30/22	\$8,468,257.18	\$1,475,073.93	\$23,288.10	\$465,475.45	\$259,089.03	\$552,897.81	\$347,266.59
Most recent Trustee Resolution Date	3/24/2021	3/28/2018	3/17/2022	NONE	1/21/2021	6/9/2022	3/24/2021
Current Trustee awarded amount	\$5,707,087.93	\$1,388,523.00	\$30,000.00	\$0.00	\$1,171,620.00	\$1,267,454.00	\$270,000.00
Current Contract Encumbrances	\$1,474,393.95	\$550,000.00	\$0.00	\$0.00	\$14,771.82	\$510,353.00	\$341,678.00
Remaining available funds	\$6,993,863.23	\$925,073.93	\$23,288.10	\$465,475.45	\$244,317.21	\$42,544.81	\$5,588.59
Settlement Restrictions	NO	NO	NO	NO	YES	NO	NO
Type of Restriction	None	Foundation Fund can only be used with NGC	None	Money received through settlement with insurance company - no NRD requirements	All money must be spent in the Alamosa River Watershed	None	None
Interest and explanations	Recovery Fund- Trustees agreed to work with NGC for restoration projects	Waiting for Amended Consent Decree to reallocate funds to RMA Recovery Fund	No remaining funds available	Reviewing project submittals for Gunnison River Basin	Interest awarded to TU, no remaining funds available	TU interested in using interest not previously awarded	Interest awarded to WEEDC, no remaining available funds

ITEM #4

NO DOCUMENT

ITEM #5

## GUIDANCE

# COLORADO NATURAL RESOURCE DAMAGES RESTORATION PROJECT SELECTION PROCESS AND ADMINISTRATION OF THE COLORADO NATURAL RESOURCE DAMAGE RECOVERY FUND

Originally approved by the Colorado Natural Resources Trustees on November 17, 2014.  
This revision approved on September 16, 2022.

### I. Introduction

Colorado may recover monetary compensation for injuries to its natural resources through legal claims brought under CERCLA<sup>1</sup> and OPA<sup>2</sup>. This compensation is known as Natural Resource Damages, or NRDs. CERCLA and OPA require the NRD recoveries be used to restore, replace, or acquire the equivalent of the injured natural resources. This guidance is intended to assist state Trustee staff in selecting NRD restoration projects for recommendation to the Trustees and to administer the funds recovered for natural resource damages. This guidance is also intended to inform interested citizens about the process.

This guidance sets forth a general procedure, which may vary depending upon site-specific factors. The policies and procedures herein are not intended to and cannot create rights, substantive or procedural, enforceable by any person or party for any purpose. The Trustees and their Representatives and staff reserve the right to vary from this policy. The Trustees also reserve the right to change this policy at any time.

### II. Key Players

#### a. Trustees.

Under CERCLA and OPA, Colorado may bring claims for Natural Resource Damages through its governor-designated trustees.<sup>3</sup> In 1990, Governor Roy Romer designated the following officers as NRD Trustees (Trustees) for actions under CERCLA<sup>4</sup>:

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<sup>1</sup> In 1980, Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C.A. §§ 1601 - 9675 (CERCLA §§ 101 – 405)), otherwise known as CERCLA or Superfund. While it is best known for providing for clean-up of hazardous substances following an unauthorized release, CERCLA also gives states the authority to seek compensation for resulting injuries to state natural resources.

<sup>2</sup> The Oil Pollution Act, 33 U.S.C.A. §§ 2701 – 2762, gives states the authority to seek compensation for injuries to state natural resources resulting from the release of oil or petroleum into state waters.

<sup>3</sup> 42 U.S.C.A. § 9607(f)(2)(B), 33 U.S.C.A. § 2706(b)(3).

<sup>4</sup> January 19, 1990 letter from Governor Roy Romer to Robert F. Stewart, U.S. Department of Interior.

1. Attorney General of the State of Colorado
2. Executive Director of the Colorado Department of Public Health and Environment
3. Executive Director of the Colorado Department of Natural Resources

In 2006, Governor Bill Owens designated the same officers to serve as Trustees under OPA.<sup>5</sup>

The Trustees establish policy, guidance, and direction for the NRD program. The Trustees are responsible for making final decisions related to funding from the NRD Recovery Fund (“Fund”) including the approval or disapproval of restoration projects submitted in response to a solicitation for project proposals (SPP) or other projects identified by Trustee staff. The Trustees remain the final authority on site actions, such as approval of Fund expenditures and restoration decisions. The Trustees may delegate their responsibilities.

b. Trustee Representatives.

Each Colorado NRD Trustee agency will designate one point of contact for its Trustee, who will coordinate NRDs efforts within the agency. These contacts are designated the Trustee’s Representatives. These Trustee Representatives meet regularly to review the overall NRDs Program to evaluate and review current and potential future matters. The Trustee’s Representatives assign a Project Manager to specific NRDs claims.

c. Project Managers.

Project Managers are agency employees assigned by their agency’s Trustee Representative, responsible for the day-to-day management of each case. Generally, each Trustee agency assigns a Project Manager to each case. Project Managers have three main responsibilities: first, to represent the Trustees during the solicitation for project proposals; second, in coordination with the Trustee Representatives, make recommendations to the Trustees regarding the eligible project proposals for the Trustees to approve; and third, to provide project management and act as the point of contact throughout the NRD process.<sup>6</sup>

i. *Project Managers Responsibilities Related to the Work Group.*

Project Managers are responsible for establishing a Work Group (defined below), when

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<sup>5</sup> January 31, 2006 letter from Governor Bill Owens to Jan Lane, United States Coast Guard.

<sup>6</sup> At some sites, a federal or tribal trustee or another state’s trustee, may also have made a claim and recovered damages for injuries to its natural resources, possibly in a joint effort with Colorado. The Trustees should determine whether joining with a non-Colorado trustee group, usually called the “site council” in federal cases, will serve Colorado’s interests.

necessary as determined by Project Managers, providing notice to local government(s) and other interested parties of the existence of the Work Group, its purpose, and requesting a designated contact person or office, steering the Work Group through drafting a SPP, publishing the SPP, and holding public meetings.

ii. *Project Manager Responsibilities Related to the Project Proposals.*

Project Managers are responsible for defining restoration goals for the site; coordinating with contracts administration staff to ensure the solicitation and procurement process complies with state procurement rules and is consistent with Colorado Department of Public Health and Environment (“CDPHE”) policy and procedures; shaping and facilitating the project selection process including the development of the project’s scoring matrix; providing a description of the injuries; and advertising for restoration projects.

Project Managers also determine the procedure for evaluating the proposals in accordance with this guidance. Techniques vary but usually include project presentations from the applicants, site visits, evaluation of written project descriptions/qualifications and oral presentations using a screening/selection matrix, interviews of applicants, and review of public comment. Ultimately, the Project Managers are responsible for shaping the application and selection process.

iii. *Project Manager Responsibilities to the Trustees.*

Through Trustee Representatives, the Project Managers keep the Trustees apprised of the NRD selection process. Trustee Representatives are responsible for making a recommendation of eligible and appropriate NRD restoration projects based on the Project Managers’ evaluation.

d. *The Work Group.*

If the Project Managers determine a Work Group is necessary, the Work Group assists the Project Managers regarding the selection of appropriate restoration projects. The Work Group is selected by the Project Managers and usually consists of representatives of local interests, including members of local governments, community groups, affected businesses, or any other interested parties. The Work Group may seek assistance from other agencies or community groups, such as a Superfund Site Community Advisory Group, with an interest in the site, or persons with useful expertise. Members of the Work Group typically act as a liaison to their communities: keeping them apprised of progress and bringing any community concerns to the Project Managers.

Once established, the Work Group assists the Project Managers by providing input about environmental restoration needs within the community, helping define the nature of the project(s) to be solicited, discussing needs for the SPP, helping to draft the SPP document, assisting with the distribution of the SPP in the community, and attending public meetings. Work Group members may also be involved in the project evaluation process, attend presentations from the project proponents, attend site visits, and provide

feedback to the Project Managers regarding community needs and preferences for project selection.

The Work Group assists the Project Managers in evaluating the project proposals and ultimately assists the Project Managers in formulating a recommendation for the Trustees when the evaluation process is complete. At all times, Work Group members serve at the pleasure of the Project Managers and such members may be removed or replaced at will.

If a member of the Work Group also represents the interests of an entity that has submitted a project proposal, or the Work Group member submits a proposal, that Work Group member may participate on the Work Group in the evaluation of the project proposals, unless the Project Managers collectively determine such participation would substantially adversely affect the evaluation process.

e. Project Proponent.

Project Proponents are the entities that submit proposals to the Project Managers (and ultimately, to the Trustees) for potential NRD funding. Project Proponents may be governmental entities, nonprofit organizations, including local community organizations and Internal Revenue Code 501(c)(3) organizations, or other approved entities or organizations.

### **III. Solicitation Process**

Generally, the State Trustee's policy is to avoid paying for project design, engineering and planning costs. Project Proponents should have access to other funding sources to cover these costs. The State Trustees may be willing to support administrative costs under some circumstances: generally, these include projects that are brought by NGO entities in underserved areas.

Parties responsible for the injury to natural resources at the site are generally not eligible to serve as Project Proponents, but if they do submit a project, it will receive extra scrutiny to ensure there is no conflict of interest. Project Proponents must have and maintain the financial and technical capability to successfully complete a restoration project, and must have experience with project management and contracting.

#### **Eligibility criteria for NRD.**

All projects must:

1. restore, replace or acquire the equivalent of the natural resources injured;
2. be located in the vicinity of the injured resources or demonstrate a geographical or ecological nexus to the injured natural resources;
3. comply with all applicable Federal, State, and local laws, including local ordinances and zoning;
4. not pose a threat to the health and safety of the public;
5. not interfere with ongoing response actions at the site, including ongoing



- environmental monitoring;
- 6. meet any site-specific requirements established by the Work Group or the Trustees;
- 7. (for projects involving acquisition of property for open space) include a commitment to grant a conservation easement or other mechanism that will allow the Trustees to ensure that the project provides continued natural resource restoration. If a grant of conservation easement is proposed, then the proponent must include a draft of the conservation easement with the proponent's application.

Generally, all projects should:

- 1. include alternate funding sources for operation and maintenance of the completed project<sup>7</sup>; and
- 2. effect meaningful and lasting support to the natural environment.

a. Solicitation for Project Proposals

Once the Project Managers establish a general vision for the project(s), they draft the SPP to identify the desired projects in the community that may be eligible for NRD funding. In addition to the eligibility requirements listed above, the following elements should be included in the SPP:

- 1. description of the site;
- 2. description of injured natural resources;
- 3. explanation of litigation or settlement and amount of money available;
- 4. restoration goals;
- 5. scope and criteria for evaluating proposals (as detailed in Part III, above);
- 6. requirements for project proposal submittals, including, but not limited to:
  - i. location of project;
  - ii. description of injured natural resources that will benefit from the proposed project;
  - iii. description of any other natural resources that will benefit from the proposed project;
  - iv. description of any community that may benefit from the proposed project;
  - v. criteria for judging the project's effectiveness;
  - vi. a description of any long-term maintenance or operation the project will require and identification of a funding source;
  - vii. a description of proponent's ability to successfully implement the proposal;
  - viii. budget, which includes an itemization of the amount of funds needed to complete the proposed project and the amount of money being requested from the Fund;
  - ix. an explanation of matching funds being sought; and
  - x. the time-frame for the project to begin and be completed;
- 7. proposal process and schedule, including dates for:

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<sup>7</sup> NRD funding is typically not available for operation and maintenance costs.

- i. release of SPP;
- ii. public information meeting;
- iii. proposal submission, possibly preceded by screening level proposal;
- iv. public comment period;
- v. final proposal submission; and
- vi. anticipated Trustee decision date

The Project Managers publish the SPP. Typically, this is done by the CDPHE Project Manager through CDPHE's public affairs coordinator. Project Managers and the public affairs coordinator should notify press representatives for their respective agencies of the publication of the SPP. The Project Managers should also notify local and other community groups, as appropriate, that have indicated an interest in the SPP's release and usually will hold a public meeting or participate in a community organizations meeting to describe the nature of the funding source and the projects desired, describe the process for selection of projects, and give the public an opportunity for early input. A mailing list for the project may be developed from the public meeting attendees. Additionally, CDPHE will provide translation or interpretation services, if necessary based on the demographics of the community, or by request.

A sample SPP is included as an Appendix to this document.

b. Scoring Matrix.

In addition to identifying a vision for the project, and drafting and publishing the SPP, the Project Managers may develop a site-specific project scoring matrix for ranking all project proposals that are determined to have met the eligibility requirements, using the eligibility requirements listed above, any additional considerations, and some or all of the following:

1. applicant's ability to obtain matching funds from other funding sources;
2. technical feasibility and procedural viability of the project, based on the applicant's technical and management abilities;
3. the likelihood that the project can be successfully completed in an acceptable period of time;
4. project benefits versus the expected costs;
5. long-term project benefits versus any short-term injuries to the environment caused by implementing the project;
6. feasibility of the project's long-term operation, maintenance, and sustainability plan;
7. consistency of the project with existing state, regional and local resource management and development plans;
8. the likelihood the project will benefit more than one resource or service;
9. the likelihood the project can be reasonably monitored and have benefits that can be measured and verified;
10. whether the project provides actual resource improvements rather than only conservation of open space, unless development threats are imminent or the conservation opportunity is of an advantageous scale or timing;
11. the cost-effectiveness of the project relative to other projects that would

- benefit the same natural resource(s);
- 12. the degree to which project utilizes multiple approaches (restoration, replacement and acquisition);
- 13. the degree to which the project involves multiple partners and is collaborative;
- 14. the likelihood of the project being funded through other mechanisms, or whether implementation of the project would free funding sources to finance other restoration projects; and
- 15. whether the project will help restore natural resources in any disproportionately impacted community<sup>8</sup>.

In some cases, the Project Managers may decide to seek approval of the project matrix from the Trustees prior to issuing a Solicitation for Project Proposals.

#### c. Matching Funds

Project proponents should provide at least a 50% match for projects considered for NRD funding. For example, if a proponent asks for \$1,000,000.00 for a project, it should provide a match of \$500,000.00. The match must be described in the proponent's proposal. At least half of the match should be for NRD-related work (e.g., construction type work that directly supports the project and is the same type of work that was funded by the Trustees) and the other half may be "non-NRD match" (e.g., work that complements the project, such as designated trails or sanitary facilities). Non-NRD matching funds must not undermine the NRD component of the project. The match may also be a combination of in-kind services and actual dollar costs for activities related to the project.

Proposals should have a match breakout separating NRD-related match money from non-NRD-related match money. When in-kind services serve as a portion of the match, the proposal should specifically state how the value of the in-kind services was derived using either a calculation based on Federal Emergency Management Agency labor cost index or by stating which part of the project budget will be performed via in-kind services.

In scoring the projects, the Project Managers will typically give preferential consideration to those projects with better match conditions.

#### d. Evaluation and Selection of NRD Restoration Project Proposals.

Once the project proposal deadline published in the SPP has been reached, the Project Managers evaluate the received proposals. Project Managers may schedule presentations with Project Proponents whose projects meet the eligibility requirements. Project Managers may schedule site visits. Project presentations and pre-selection site visits are encouraged because they often provide a great deal of information and perspective that is not always ascertainable from a proposal. If there are too many proposals, it may be necessary to screen projects in advance to develop a 'short list'.

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<sup>8</sup> Disproportionately impacted communities are identified by the State of Colorado on its [EnviroScreen mapping tool](#).

The Project Managers provide opportunity for public comment on the proposals. This is often accomplished by placing copies on CDPHE's website for 30 days and notifying interested parties.

Once the Project Managers have all the information they need, they will review and evaluate the proposals using the site-specific project matrix established for the site, if any, and either select a project(s) or prepare a preferred list of proposals for presentation to the Trustees.

Project Proponents who are not selected should be notified by telephone and letter or email.

#### **IV. Approval of the Restoration Project(s)**

The Project Managers (usually the Project Manager representing the AGO) will prepare a Project Recommendation Memorandum for the Trustees. Depending on the amount of funds available for a site, the memorandum will either recommend certain projects, or present restoration alternatives that employ a collection of projects. Generally, the Project selected for recommended approval will be presented by the Project Proponent to the Trustees at a NRD Trustee's Meeting.

The Trustees will review the Project Recommendation Memorandum as well as any other information presented at a publicly noticed Trustee meeting and by a majority vote, approve or disapprove a restoration project. Approval of a selected NRD restoration project will be memorialized through a written resolution of the Trustees.

#### **V. Funding and Performance**

##### **a. Funding from the Natural Resource Damage Recovery Fund.**

All contracts must follow CDPHE procurement, contracting, contract monitoring system (CMS), and disbursement processes, as identified by the State Controller. It is recommended the Project Manager receive training on procurement, contract management and the CMS.

Funding for NRD projects can only be disbursed through a contract between the Project Proponent and the State. All NRD projects are paid through cost reimbursement, which means contractor invoices are paid on a regular basis after submittal<sup>9</sup>. Because the Hazardous Materials and Waste Division ("HMWMD") of CDPHE manages the Fund, contracts must be established through the CDPHE contracting office. Once the Trustees approve the NRD restoration project, the CDPHE Project Manager is responsible for the contracting process.

The following steps ensure that money is available to implement the approved NRD projects as directed by the Trustees.

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<sup>9</sup> The exception to this is a land purchase, in which case, a fiscal waiver is required in order to provide the funds at closing.

1. HMWMD Remediation Program Manager (the Trustee Representative for CDPHE) must have already obtained the necessary legislative spending authority as part of the CDPHE's annual legislative budget process.
2. The CDPHE Project Manager initiates the contracting process by contacting HMWMD's Contracts Officer and providing a Contracts Authorization Request Form (CAR) including the Trustee Resolution approving the expenditure needed for the project. The Remediation Program Fiscal Manager must confirm funding availability by identifying a grant budget line (GBL) and signing the CAR.
3. HMWMD Contracts Officer establishes contracts with the party receiving the money for the restoration project according to State and CDPHE contracting requirements and processes.
4. The CDPHE Project Manager oversees the projects, receives the invoices, reviews, approves each expenditure, and evaluates contractor performance through the State's Contract Monitoring System (CMS).
5. The Remediation Program Fiscal Manager monitors the balance of the NRD recovery funds by site.

b. Background Information Regarding Annual Appropriations Process

The State Legislature annually appropriates the amount of money State agencies can spend, including the amount from specific funds such as the Natural Resources Damage Recovery Fund. HMWMD operates under a strict timeline to ensure money from the Fund is available, or appropriated, for NRD projects. NRD appropriations are typically considered "capital construction expenditures," which means the authorization to spend the funds is valid for three years.<sup>10</sup>

In late June or early July, CDPHE requests authority from the legislature to spend the amount needed from the Fund for each site in the following fiscal year. HMWMD's request is first considered by the Capital Development Committee, which will make its recommendation to the Joint Budget Committee (JBC) for its consideration in February. If the JBC approves, it will recommend the appropriation to the full legislature. Upon legislative approval, the request will be included in the budget submitted to the governor in May. Assuming the governor approves the budget, the money will then be available in July, which is a year after HMWMD makes its request.

To successfully manage the Fund within this system, HMWMD fiscal managers request legislative appropriation for new sites as soon as a settlement or litigation is complete.

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<sup>10</sup> It is possible, in extraordinary situations, to make a supplemental budget request, such as when there is an emergency, a technical error in a previous appropriation having a substantial effect on the program, or new information that results in substantial changes in funding needs. Trustee staff should never rely on this possibility, because CDPHE is reluctant to use this mechanism and it is unlikely the JBC would approve the expenditure. That said, supplemental requests are usually made in October or November and affect current year appropriations.



HMWMD may or may not request spending authority for all the money in the Fund for a particular site during that budget cycle.

c. Fund Disbursement

Proponents will implement their projects in accordance with the budgets and schedules submitted in their proposals. Significant changes to projects must be approved by the Trustees, and must still meet the criteria for project selection. In addition, significant changes approved by the Trustees may require amendment of the contract. Consultation with the CDPHE Contract Officer will be necessary to determine if a contract amendment is required.

As projects are implemented, the Project Manager will ensure the project is completed according to the proposal and the contract, approve contractor invoices, and document activities for the project.

The CDPHE Project Manager must approve all invoices submitted for reimbursement of the cost of a project using the Invoice Checklist Form, available on the CDPHE Intranet. This may be through periodic approval of reimbursements, such as for sub-contractors, throughout implementation of a project, or one reimbursement after a project is completed, as defined in the CAR. The CDPHE Project Manager is responsible for tracking invoices and monitoring the budget. In the case of land acquisition, the CDPHE Contract Officer can arrange for funds to be available at closing. Except for land acquisition, all payments to a Proponent will be after it has incurred costs for the project. To be reimbursed, a Proponent must submit invoices according to the process outlined in its contract for reimbursement.

i. *Project Completion.*

The Trustee's Representative or Project Manager will determine when a project is complete. Projects are considered complete when the project Proponent has completed all activities described in the proposal and met all the requirements of the contract. The Project Manager should not approve final payment under the contract until the Proponent has fulfilled all contract requirements, including submission of any required Completion Reports and/or As-built drawings.

ii. *Project Files.*

The CDPHE Trustee Representative or Project Manager is responsible for maintaining a site NRD file. The file should include copies of proposals approved for funding, Trustee Resolution, contract documents, invoices and other project-related documentation/ correspondence. The file, either project or contract, should include all the procurement documentation (e.g., notices, SPP, project matrix, proposals received, scoring documentation, notice of award, etc.).

iii. *Monitoring.*

Trustee Representatives will require a project monitoring component where appropriate. Monitoring may include interim and final restoration goal evaluation based on

performance standards determined by Trustee's Representatives. If monitoring is required, the Project Manager is responsible for ensuring the monitoring takes place and that the Proponent submits any required reports or data. Such reports and data should be placed in the site file and copies should be provided to the other Trustee Representatives. If monitoring data indicates a project has failed or is in need of maintenance, the Project Manager should inform the other Trustee Representatives and should contact the Project Proponent for resolution of any identified problems. Additionally, after all work is completed, the Project Proponent should make a presentation to the Trustees to show the effectiveness of the restoration project.

DRAFT

ITEM #6



**PHIL WEISER**  
Attorney General  
**NATALIE HANLON LEH**  
Chief Deputy Attorney General  
**ERIC R. OLSON**  
Solicitor General  
**ERIC T. MEYER**  
Chief Operating Officer



**STATE OF COLORADO  
DEPARTMENT OF LAW**

**RALPH L. CARR**  
**COLORADO JUDICIAL CENTER**  
1300 Broadway, 10th Floor  
Denver, Colorado 80203  
Phone (720) 508-6000

Natural Resources &  
Environment

September 16, 2022

**M E M O R A N D U M**

**TO:** Colorado Natural Resources Trustees  
**FROM:** David Banas  
Senior Assistant Attorney General  
**RE:** California Gulch – Central Colorado Conservancy Project Amendment

**BACKGROUND**

California Gulch was one of Colorado's original 1983 natural resource damages cases, yielding \$20.5 million, split between the State and federal Trustees. Many projects have been implemented with these funds on and around the upper Arkansas River. State Trustee staff work on the California Gulch site together with federal Trustees on a federal Trustee Council, which jointly administers federal and State NRD funds.

In 2021, the Trustee Council approved several projects worth approximately \$6.3 million. One recipient of these funds was the Central Colorado Conservancy (CCC), whom the Trustee Council awarded \$900,000 to help acquire five properties and establish conservation easements and public access easements for fishing, hunting, and wildlife watching. The Trustees approved the CCC's project proposal on December 1, 2021.

**UPDATE**

Over the last several months, CCC has worked to acquire properties pursuant to the 2021 approval. During these efforts, another, more desirable property has become available. CCC now seeks to amend its 2021 project proposal to slightly reduce the total acreage but to increase the total riverfront acreage. Their specific request is explained on page 2 of the attached proposal and shown in the maps on page 4.

The federal Trustee Council has approved this amendment and we are now seeking State Trustee approval.

A representative of CCC will present CCC's proposed project amendment at the September 16, 2022 Trustee meeting.

#### RECOMMENDATION

Staff recommends the Trustees approve the CCC request to amend its 2021 project proposal.

#### ACTION ITEMS

Approve/deny the draft resolution approving CCC's Arkansas River Community Preserve - Proposed Project Update.

#### ATTACHMENTS

CCC's Arkansas River Community Preserve - Proposed Project Update  
Draft Resolution





## ARKANSAS RIVER COMMUNITY PRESERVE PROPOSED PROJECT UPDATE

### ***Project Overview***

Central Colorado Conservancy and our partners are continuing to make great progress with the Arkansas River Community (ARC) Preserve in southern Lake County. All current and proposed parcels for this project are or will be owned in fee title by the Conservancy, with a conservation easement held by Colorado Open Lands, and public access easement held and public access managed by Lake County Government. This Preserve will be open for free public access for recreational use including hiking, biking, wildlife watching, and fishing, and access to adjacent Federal public land.

After closing on this Phase, the ecological and public management plan will be developed with our Lake County and Colorado Open Lands partners, and with input from key stakeholders such as Colorado Parks and Wildlife, Trout Unlimited, Get Outdoors Leadville, and the Stage and Rail Trail. Following development of, and formal agreement to, the management plan, the ARC Preserve will be open to the public.

In previous Phases of establishing the ARC Preserve, the Conservancy closed on the acquisition of 161.2 acres, including 1.5 miles of Arkansas River frontage, and placed them under permanent protection through conservation easement and allowed free access through public access easement (Figure 1, outlined in purple).

In this Phase, the Conservancy acquired funding from the NRD Trustees (\$900,000 awarded December 2021), GOCO (\$500,000 awarded March 2022), and a private donation to acquire an additional 160.7 acres (Table 1; Figure 1, Parcels A – H), including 0.7 miles of Arkansas River frontage, and complete necessary due diligence and associated expenses.

### ***Project Updates***

In April 2022, the Conservancy closed on the fee title acquisition of Parcel C.

Our scheduled closing date for all additional acquisitions in this Phase and easement amendments is October 27, 2022.

Parcels D and H are under contract.

Parcels E – G have a single landowner group and were listed on the market at \$30,700/acre. We have funding awarded to purchase these parcels at \$10,000/acre (\$406,200 total), and we are limited by our funders to not pay above the appraised value for any parcels. We sought a consultation with an appraiser (Bill Boortz; Mountain, Valley and Plains, Inc.) who has and will be completing the appraisals for all acquisitions in this project. He advised that these parcels would appraise at \$15,000/acre. After negotiations with the property brokers, we agreed to a purchase price of \$15,000/acre (\$609,300 total), and Parcels E – G are now under contract.

We had a verbal agreement to purchase Parcels A – B (60 acres) from a single landowner for a total \$640,000. These are not priority parcels because they do not have river frontage and have limited connectivity with other protected land. Furthermore, our current agreement with Lake County and Colorado Open Lands is to include these parcels in the Preserve and in the conservation and public access easements, but to not immediately manage these parcels for public access to reduce management costs for the County.

Parcel I has more recently come on the market for a very reasonable purchase price (9.82 acres; \$37,000). It is ideally located—adjacent to other ARC Preserve property on the west and south and National Forest land on the east.

### ***Proposed Project Update***

This revised budget reflects a reallocation of available resources to achieve our top priority conservation and public benefit outcomes within this project. Following the acquisition of Parcel C and purchase contract on Parcel D and H, Parcels E – G became the clear priority to complete the full connected acquisition of this stretch of the Arkansas River. Parcels E – G were listed for sale at values that put the full set of proposed parcels beyond the available funding. Fortunately, the sellers agreed to a much lower price (\$15,000/acre), supported by the appraiser, though still reflecting a steep appreciation in value since the time of the grant proposal (awarded \$10,000/acre).

The additional funds needed to secure Parcels E – G are available by ceasing attempts to acquire Parcel A (40 acres; \$426,667), which is not under contract and is a lower priority based on its non-river front location. These reallocated funds also allow the purchase and inclusion of Parcel I, with its connectivity to protected land, and to purchase 30 acres of Parcel B rather than the originally proposed 20 acres.

We are under contract with Parcel I and have verbal agreement with the landowner of Parcels A & B to move forward with the purchase of 30 acres of Parcel B rather than 20 of Parcel B and all 40 acres of Parcel A.

**From the funded proposals, this reallocation would decrease the acreage in this Phase by 20 acres, from 160.7 acres (total 322 acres combined with previous Phases) to 140.6 acres (total 302 acres combined with previous Phases), but would maintain the 0.7 miles of protected river frontage for this phase of acquisitions, for a total 2.2 miles across all Phases. After acquisition costs, there will still be over \$200,000 of awarded funds remaining for due diligence and closing costs.**

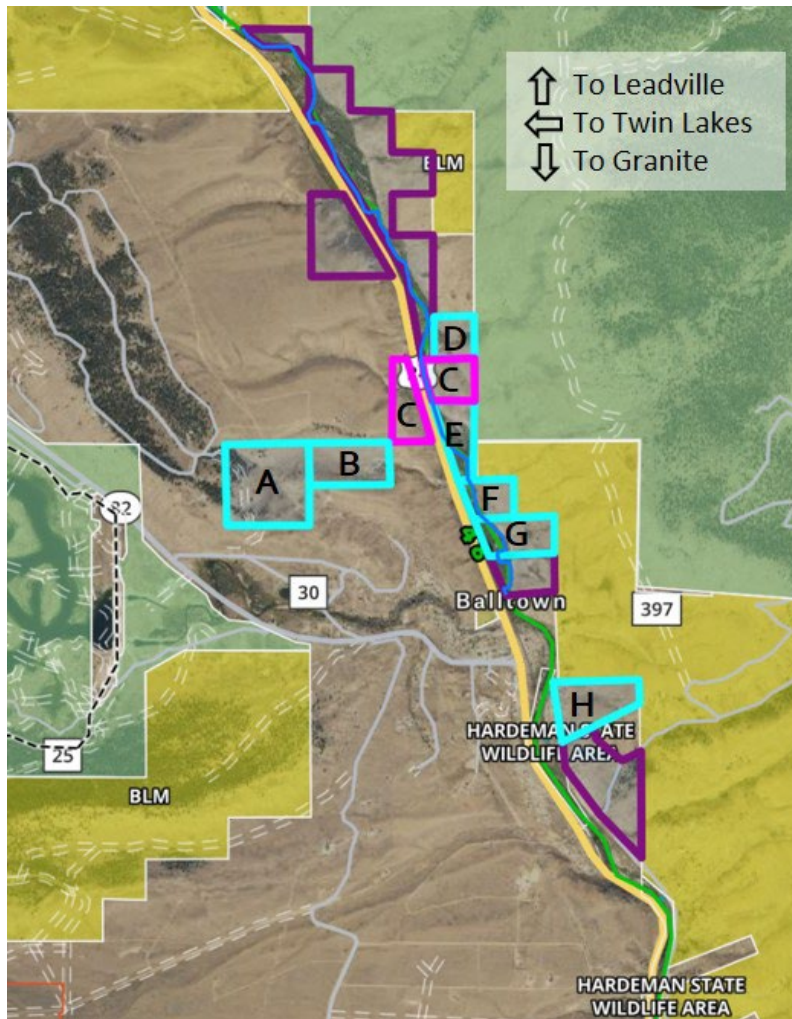
**This solution supports the primary project outcomes of river and wetland protection, wildlife habitat connectivity, and maximizing public benefit through recreation. We have the support of Colorado Open Lands and Lake County Government in this solution (see following letter of support). We feel this revision is necessary and sufficient for the successful completion of this Phase of establishing the ARC Preserve, and that it would fully meet project objectives.**

**Table 1:** *Previous* parcel overview and progress notes. The Reallocated budget column shows that with the agreed upon purchase price of Malenky, we would be beyond our total awarded budget of \$1,500,000.

Common name	Map parcel	Frontage (miles)	Acreage	Price/acre	Reallocated budget	Previous budget	Closing date	Progress notes	Funders
Ferguson	A – B	0.000	60.00	\$10,667	\$640,000	\$640,000	27 October 2022	Verbal agreement	NRD Trustees, GOCO
Hennis	C	0.13	30.00	\$5,833	\$175,000	\$175,000	27 April 2022	Closed	NRD Trustees, GOCO
Sharp	D	0.000	9.87	\$5,066	\$50,000	\$50,000	27 October 2022	Under contract	GOCO
Malenky	E – G	0.57	40.62	\$15,000	\$609,300	\$406,200	27 October 2022	Under contract	NRD Trustees, GOCO
Leisure Hills	H	0.000	20.32	\$5,066	\$100,000	\$100,000	27 October 2022	Under contract	GOCO
<b>Total</b>	-	<b>0.70</b>	<b>160.65</b>	<b>\$9,800</b>	<b>\$1,574,300</b>	<b>\$1,371,200</b>	-	-	-

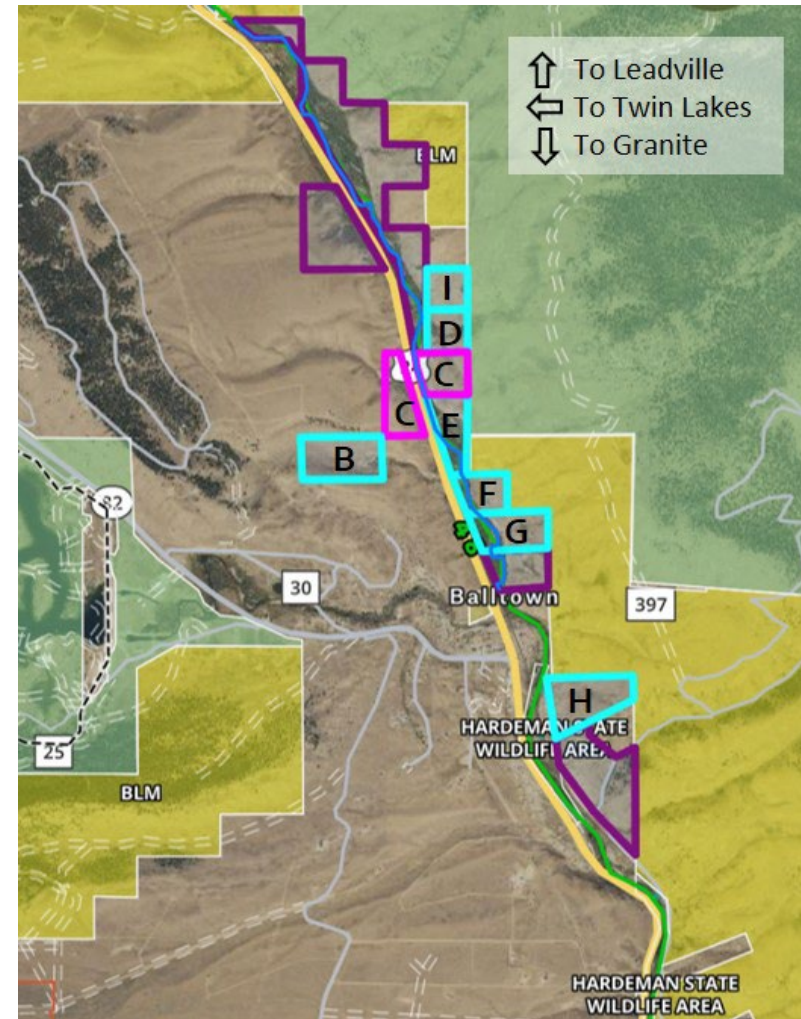
**Table 2:** *Reallocated* parcel overview and progress notes. The Total Reallocated budget column shows that with the reallocated funds from purchasing only 30 acres of Ferguson rather than 60 acres, we are able to purchase Malenky and Lipuma and have over \$200,000 remaining of our total awarded budget of \$1,500,000 for due diligence expenses.

Common name	Map parcel	Frontage (miles)	Acreage	Price/acre	Reallocated budget	Previous budget	Closing date	Progress notes	Funders
Ferguson	B	0.000	30.00	\$10,667	\$320,010	\$320,010	27 October 2022	Verbal agreement	NRD Trustees, GOCO
Hennis	C	0.13	30.00	\$5,833	\$175,000	\$175,000	27 April 2022	Closed	NRD Trustees, GOCO
Sharp	D	0.000	9.87	\$5,066	\$50,000	\$50,000	27 October 2022	Under contract	GOCO
Malenky	E – G	0.57	40.62	\$15,000	\$609,300	\$406,200	27 October 2022	Under contract	NRD Trustees, GOCO
Leisure Hills	H	0.000	20.32	\$5,066	\$100,000	\$100,000	27 October 2022	Under contract	GOCO
Lipuma	I	0.000	9.82	\$3,768	\$37,000	\$0	27 October 2022	Under contract	Pending approval: NRD Trustees, GOCO
<b>Total</b>	-	<b>0.70</b>	<b>140.63</b>	<b>\$9,080</b>	<b>\$1,291,310</b>	<b>\$944,533</b>	-	-	-



**Figure 1:** *Previous* parcel map showing the acquired parcels from previous phases outlined in purple, acquired parcel from current phase in pink, and proposed parcels in teal.

The ARC Preserve is along Highway 24 and the Arkansas River in southern Lake County.



**Figure 2:** *Reallocated* parcel map showing the acquired parcels from previous phases outlined in purple, acquired parcel from current phase in pink, and proposed parcels in teal.

The ARC Preserve is along Highway 24 and the Arkansas River in southern Lake County.



August 26, 2022

Colorado Natural Resource Damages Trustees  
Upper Arkansas River Watershed NRDA Project

Susan Newton, Melody Mascarenaz, and Kevin Fisher  
Colorado Department of Public Health & Environment  
[Susan.newton@state.co.us](mailto:Susan.newton@state.co.us)

Re: Upper Arkansas River – Project modification request with Central Colorado Conservancy

Dear Ms. Newton and the NRD Trustees,

Colorado Open Lands has been working with Central Colorado Conservancy in support of their project to purchase, protect, and provide access to a set of properties along the Arkansas River in southern Lake County, the “Arkansas River Community Preserve”. Building on the existing ~161-acre preserve established in 2021, in this phase of the project CCC will acquire an additional eight parcels to essentially complete the protection of this canyon, adding 140.6 acres and connecting two miles of the Arkansas River on both sides. Public access will be managed by Lake County, and the conservation easement held by Colorado Open Lands.

I wish to offer Colorado Open Lands’ complete support for the modifications proposed to the project, which prioritizes the allocation of these grant funds to the highest priority parcels along the river. The importance of the connectivity of these parcels cannot be overstated. By yielding Parcel A, which west of the canyon was the lowest priority parcel under consideration, there is sufficient funding within the available grants to not only meet higher-than-expected land values and expenses for the river parcels, but also acquire a new opportunity, Parcel I, which is contiguous with other the Preserve on two sides, connecting it to National Forest lands.

This effort will provide a lasting asset to Lake County and all Coloradans, and we are proud to be a part of this. Thank you for your support of this project and please contact me if I can provide any additional information.

Sincerely,

A handwritten signature in black ink that reads "Ben Lenth". The signature is fluid and cursive, with the first name "Ben" being more prominent than the last name "Lenth".

Ben Lenth  
[blenth@coloradoopenlands.org](mailto:blenth@coloradoopenlands.org)





**COLORADO NATURAL RESOURCES TRUSTEES  
SEPTEMBER 16, 2022  
RESOLUTION CONCERNING  
AMENDMENT TO CENTRAL COLORADO CONSERVANCY  
PROPERTY ACQUISITIONS**

**WHEREAS**, the Colorado Natural Resources Trustees (“Trustees”) are responsible for the management and direction of Colorado’s natural resource damages program and have coordinated with federal trustee agency counterparts to form a Trustee Council for California Gulch pursuant to a 2020 Memorandum of Understanding;

**WHEREAS**, the Trustees are responsible for administering State funds to restore, replace, or acquire the equivalent of injured natural resources;

**WHEREAS**, in December 2021, the Trustees awarded the Central Colorado Conservancy (CCC) \$900,000 from the State’s California Gulch Natural Resources Damages (“NRDs”) fund to help acquire five (5) properties and establish conservation easements and public access easements for fishing, hunting, and wildlife watching;

**WHEREAS**, in August 2022, CCC requested to amend their proposal so it can acquire a riverfront property that has become available.

**NOW THEREFORE**, the Trustees resolve as follows:

The Trustees do hereby approve replacing Parcel A with Parcel I, as described in CCC’s August 26, 2022 “Arkansas River Community Preserve - Proposed Project Update.” This approval modifies the approval granted in Trustee Resolution No. 2021-12-01-01.

All of the conditions of approval in Trustee Resolution No. 2021-12-01-01 continue to apply.

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Philip J. Weiser  
Colorado Attorney General

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Date

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Trisha Oeth  
Director of Environmental Health and Protection,  
CDPHE

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Date

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Dan Gibbs, Executive Director, DNR

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Date

ITEM #7 – 13  
NO DOCUMENTS